

EXHIBIT 48

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRACY HOWARD, ADINA RINGLER,) Case No. 3:22-cv-527-VC
and TRACEE ARTIS, on behalf)
of themselves and all others)
similarly situated,)
Plaintiffs,)
vs.)
THE HAIN CELESTIAL GROUP,)
INCORPORATED,)
Defendant.)

VIDEOCONFERENCE DEPOSITION TESTIMONY OF

TRACY M. HOWARD

VOLUME 1

FRIDAY, SEPTEMBER 29, 2023

REDWOOD CITY, CALIFORNIA

REPORTED BY:
Rebecca Klanderud, RPR, CSR
California CSR 14527

Transcript of Tracy M. Howard
Conducted on September 29, 2023

2

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3 TRACY HOWARD, ADINA RINGLER,) Case No. 3:22-cv-527-VC
4 and TRACEE ARTIS, on behalf)
5 of themselves and all others)
6 similarly situated,)

7 Plaintiffs,)

8 vs.)

9 THE HAIN CELESTIAL GROUP,)
10 INCORPORATED,)

11 Defendant.)

12 Videoconference Deposition Testimony of

13 TRACY M. HOWARD, Volume 1, taken on behalf of the
14 Defendant, with the witness appearing in Redwood City,
15 California, beginning at 10:00 a.m. PDT and ending at
16 1:14 p.m. PDT, on September 29, 2023, reported
17 stenographically by Rebecca Klanderud, Registered
18 Professional Reporter and Certified Shorthand Reporter
19 for the State of California.

Transcript of Tracy M. Howard
Conducted on September 29, 2023

7

1	MS. REYNOLDS: Yes. So stipulated.	
2	THE COURT REPORTER: Thank you, Counsel.	
3	Ms. Howard, kindly raise your right hand.	
4	(The court reporter administered the oath to	
5	Tracy M. Howard.)	
6	THE WITNESS: Yes, Miss.	
7	THE COURT REPORTER: Thank you, Ms. Howard.	
8	Counsel, you may proceed.	10:04:01
9	MR. SMITH: Uh, thank you.	10:04:01
10	TRACY M. HOWARD,	10:04:01
11	a witness in the above-entitled matter,	10:04:01
12	having been first duly sworn,	10:04:01
13	testified on her oath as follows:	10:04:01
14	EXAMINATION	10:04:02
15	BY MR. SMITH:	10:04:02
16	Q. Uh, Ms. Howard, could you please state your	10:04:05
17	full name on the record?	10:04:06
18	A. Tracy Marie Howard.	10:04:07
19	Q. All right, Ms. Howard. Have you been deposed	10:04:10
20	before?	10:04:12
21	A. No. I don't know.	10:04:13
22	What does that mean?	10:04:14
23	Q. Have you ever been at a deposition before?	10:04:15
24	A. No.	10:04:17
25	Q. Okay. Do you understand we're at a deposition	10:04:17

Transcript of Tracy M. Howard
Conducted on September 29, 2023

11

1	correct?	10:07:11
2	A. Yes.	10:07:11
3	Q. What's his name?	10:07:12
4	A. Mattias Angel Howard.	10:07:14
5	Q. And how old is Mattias?	10:07:24
6	A. Three.	10:07:26
7	Q. What's his birthday?	10:07:28
8	A. You -- uh, it's -- uh, it was just yesterday.	10:07:31
9	It's 9/28/2020.	10:07:35
10	Q. Well, happy birthday to your son.	10:07:39
11	A. Thank you.	10:07:42
12	Q. Um, and that -- he's your only child, correct?	10:07:42
13	A. Yes.	10:07:46
14	Q. Okay. Um, do you have full custody of him?	10:07:47
15	A. Yes.	10:07:52
16	Q. I know this is personal and private, and I'm	10:07:54
17	not trying to pry.	10:07:57
18	Does his father -- is he in the picture at	10:07:58
19	all?	10:08:02
20	A. No.	10:08:02
21	Q. Okay. Um, Ms. Howard, where -- where did you	10:08:03
22	grow up?	10:08:06
23	A. Uh, Fresno, California.	10:08:07
24	Q. Did you go to high school?	10:08:10
25	A. Yes.	10:08:12

Transcript of Tracy M. Howard
Conducted on September 29, 2023

50

1 really do anything because I can't shove food down his 10:51:52
2 throat. You know, um, and I was buying his PediaSure 10:51:56
3 whenever I can, which was taking away from a lot of 10:52:00
4 other food, too, but, you know, I had to wait for the 10:52:04
5 doctors to finally prescribe it to really get him -- and 10:52:08
6 now, he's doing better, which is great, but he -- you 10:52:11
7 know, he's still behind. 10:52:14

8 Q. Right. So -- so the number one priority when 10:52:14
9 you're buying food for your son is just to get him 10:52:18
10 something he'll eat? 10:52:21

11 A. Yeah. At this point, yeah. 10:52:22

12 Q. And I assume that one of the reasons that you 10:52:29
13 bought baby food pouches is because those are things 10:52:31
14 that you knew he would eat? 10:52:34

15 A. Yes, and they -- they were healthy. They had 10:52:36
16 or they said high vitamins, high calcium, high protein. 10:52:40

17 You know, babies need protein. They need 10:52:46
18 vitamins. We all do, but especially babies because 10:52:48
19 they're rapidly growing. So I'm like: Cool. This is 10:52:52
20 all great. 10:52:56

21 And I would -- instead of getting the regular, 10:52:57
22 you know, stuff that just didn't say high vitamins, I 10:52:59
23 opted for the ones that said high vitamins, even though 10:53:01
24 they're more expensive, because I really wanted to make 10:53:04
25 sure that he was getting what he needed, you know. 10:53:08

Transcript of Tracy M. Howard
Conducted on September 29, 2023

57

1	heard Earth's Best, Gerber, and Nature's Balance.	10:59:58
2	Is that right?	11:00:01
3	A. Yeah.	11:00:01
4	Q. Okay. Any other brands of baby food pouches	11:00:02
5	you bought?	11:00:05
6	A. Um, very rarely, I got the Safeway brands. He	11:00:06
7	wouldn't eat those. Um, I got the big- -- the bigger	11:00:09
8	brands.	11:00:13
9	Q. Okay. Um, I think this is a good time for a	11:00:13
10	break. So why don't we take like ten minutes, and then,	11:00:17
11	um, take care of anything you need to take care of, and	11:00:20
12	we'll come back at 10 after 11:00.	11:00:23
13	THE VIDEO TECHNICIAN: Okay. I'll take us off	11:00:26
14	the record, then. Everyone stand by.	11:00:29
15	We're going off, and the time is 11:00 a.m.	11:00:32
16	(A short recess was taken.)	11:12:48
17	THE VIDEO TECHNICIAN: We're going back on the	11:12:48
18	record, and the time is 11:12 a.m.	11:12:50
19	BY MR. SMITH:	11:12:56
20	Q. Welcome back, Ms. Howard.	11:12:57
21	A. Hi.	11:12:59
22	Q. Hi.	11:12:59
23	Do you understand you're still under oath?	11:13:00
24	A. Yes.	11:13:02
25	Q. Okay. Uh, Ms. Howard, when was the first time	11:13:03

Transcript of Tracy M. Howard
Conducted on September 29, 2023

58

1 that you purchased a product under the, uh, Earth's Best
2 product line?

3 A. What do you mean? Year?

4 Q. So -- yeah. Year, month, whatever you can --
5 when was the first time?

6 A. Um, about 2021.

7 Q. Okay. And do you remember which product you
8 purchased?

9 A. Probably -- my son was still, uh, young, so
10 probably, um, the canned baby food, um, but I didn't
11 start getting the pouches -- well, actually, no. Um, I
12 started getting the pouches when he was like six months
13 old because it said, uh, age of six months, uh, up. So
14 as soon as he was six months, when I started getting the
15 pouches, and then especially after, uh, one is really
16 when I started getting pouches because that's when he
17 was transferring off the baby food, but he wouldn't eat
18 the cans anymore. He just wanted the pouches because he
19 liked to put them in his mouth and suck on them.

20 Q. Okay.

21 A. I think one of the things he liked about them
22 because I was trying to get him off the binky at that
23 time, too. I don't know, but around 2021, 2022 is when
24 I really started getting them.

25 Q. Okay. So your son started on, like, the

Transcript of Tracy M. Howard
Conducted on September 29, 2023

59

1 canned, jarred Earth's Best food, and then he ate the 11:14:33

2 pouches, and then at some point, he stopped eating the 11:14:38

3 cans or jars and just ate the pouches from Earth's Best? 11:14:41

4 A. Yeah. He was doing both and then as soon -- 11:14:43

5 uh, when he was, uh, one year old, I took him off the 11:14:45

6 jars, and all he wanted was the pouches. 11:14:50

7 Q. Okay. Um, do you remember specifically which 11:14:54

8 pouches you bought from Earth's Best? 11:14:56

9 A. Yeah. The ones that said -- um, one was like 11:14:59

10 a peach yo- -- a peach yogurt. Another one had, uh, 11:15:03

11 like -- I think it had, like -- it said beef in it, um, 11:15:09

12 the one with the high protein, um, so things -- yeah, 11:15:14

13 those things. There were those ones. Not in particular 11:15:18

14 because it was long ago, and, you know, time just kind 11:15:21

15 of, you know, mingles but . . . 11:15:24

16 Q. Okay. Um, other than the -- did you ever buy 11:15:30

17 the apple blueberry, uh -- 11:15:38

18 A. Yeah. 11:15:41

19 Q. -- yogurt -- 11:15:41

20 A. Yeah. The yogurt ones, yeah. The ones with 11:15:41

21 -- uh, the ones with -- like, the breakfast ones seeming 11:15:44

22 where they had, like, yogurt and things like that in 11:15:46

23 them. He really liked those. 11:15:50

24 Q. And just so we're on the same page, these are 11:15:51

25 the pouches with, like, Sesame Street on them, right? 11:15:55

Transcript of Tracy M. Howard
Conducted on September 29, 2023

63

1	A.	Um, yes, I guess. I mean, I didn't write it,	11:18:56
2		so . . .	11:19:02
3	Q.	Someone wrote it?	11:19:02
4	A.	Someone wrote it.	11:19:04
5	Q.	Okay.	11:19:06
6	THE WITNESS:	Did you write it, Hayley?	11:19:10
7	MS. REYNOLDS:	We don't have to answer that on	11:19:14
8		the record, but it's true. Someone from our firm wrote	11:19:17
9		it.	11:19:20
10	BY MR. SMITH:		11:19:20
11	Q.	So, um, do you see paragraph two of this	11:19:21
12		declaration, the line starting with the number two?	11:19:24
13	A.	Yes.	11:19:27
14	Q.	And this says, and I'm just going to read it	11:19:29
15		out loud: "I purchased Earth's Best products for my	11:19:31
16		child when he was under the age of two, including the	11:19:36
17		Fruit Yogurt & Smoothie Peach and Banana and Fruit	11:19:42
18		Yogurt & Smoothie Apple Blueberry baby food pouches."	11:19:50
19		Correct?	11:19:50
20	A.	Yes. Yes.	11:19:51
21	Q.	Okay. And then it reads: "I purchased the	11:19:52
22		products from Walmart in Mountain View, California and	11:19:54
23		Safeway in Redwood City, California."	11:19:59
24		Correct?	11:20:01
25	A.	Yeah. Yes.	11:20:01

Transcript of Tracy M. Howard
Conducted on September 29, 2023

68

1 What about that statement made you think it 11:24:52
2 was healthy? 11:24:53

3 A. Because it says excellent source of vitamin A 11:24:54
4 or, uh, or C and D, I looked at it, and I'm like: Cool. 11:24:57
5 He's getting his vitamins. This is healthy. 11:25:02

6 Q. Okay. And, uh, do you now -- do you still 11:25:05
7 believe these products are healthy for your child? 11:25:06

8 A. No, not any more healthy than any of the other 11:25:09
9 baby food pouches. I believe that they're -- all pretty 11:25:12
10 much have the same source of vitamins and nutrition, so 11:25:17
11 they're all pretty much the same. 11:25:20

12 Q. And what caused you to change your mind about 11:25:22
13 this? 11:25:24

14 A. Well, when I realized that, uh, people -- uh, 11:25:24
15 that these companies will put these, uh, claims on the 11:25:28
16 packages in order to make them seem healthier for the 11:25:33
17 parent, and they know parents are going to make 11:25:37
18 decisions based on what they believe or conceive to be 11:25:42
19 healthy. 11:25:46

20 Q. Did you ever talk to your pediatrician about 11:25:47
21 whether these products were healthy for your child? 11:25:50

22 A. No. 11:25:53

23 Q. Did you ever speak to anyone other than your 11:25:53
24 lawyers about whether these products are healthy for 11:25:56
25 your child? 11:25:58

Transcript of Tracy M. Howard
Conducted on September 29, 2023

89

1 that have false advertisements on them.

11:47:14

2 Q. Okay. Um, and you understand that this is a
3 chart that your lawyers put together and attached to the
4 complaint in this case, right?

11:47:17

11:47:19

11:47:23

5 A. Yeah, but I have bought a lot of these ones, a
6 lot of these ones.

11:47:24

11:47:28

7 Q. Okay. So let's -- let's go through this chart
8 real quick. So let's start with the protein puree.

11:47:29

11:47:31

9 Uh, did you buy the Veggie Red Lentil Bake?

11:47:39

10 A. Yes.

11:47:44

11 Q. Uh, do you remember what store you bought it
12 from?

11:47:45

11:47:48

13 A. Like I said, you know, Target or Walmart. I
14 mean, not Target. Either Walmart or Safeway. Those are
15 where I got the bulk, bulk of my baby food from.

11:47:48

11:47:52

11:47:56

16 Q. Okay. Um, and why did you choose to buy this
17 product for your son?

11:48:00

11:48:03

18 A. Because on it, in big letters around the blue
19 and white, it says protein.

11:48:04

11:48:08

20 Q. Okay. Um, what about the label of this
21 product suggests to you that it was for children under
22 two?

11:48:16

11:48:18

11:48:20

23 Uh, and you can zoom in as much as you need.

11:48:26

24 A. Well, like I said, even after my son was two,
25 I was still giving him pouches.

11:48:30

11:48:33

Transcript of Tracy M. Howard
Conducted on September 29, 2023

153

1 I, Rebecca Klanderud, a Certified Shorthand
2 Reporter for the State of California and a Registered
3 Professional Reporter do hereby certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;

6 That prior to testifying, the witness was
7 placed under oath by me;

8 That a verbatim record of the proceedings was
9 made by me using machine shorthand and realtime technology;


10 That the foregoing deposition is a full, true,
11 and correct transcript of my shorthand notes so taken
12 and transcribed;

13 That any dismantling of this transcript will
14 void the certification of this transcript by me as a
15 Certified Shorthand Reporter, Registered Professional
16 Reporter;

17 That I am not financially interested in the
18 action, nor a relative or employee of any attorney or
19 any of the parties, nor am I in any way interested in
20 the outcome of the pending litigation.

21 IN WITNESS WHEREOF, I have this date
22 subscribed my name.

23 Dated: October 5, 2023

24 
25 Rebecca Klanderud, RPR, CSR
California CSR 14527